

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 03-3405

United States of America,

Appellee,

v.

Jeffrey B. Austin,

Appellant.

*

*

*

*

*

*

*

*

*

Appeal from the United States
District Court for the Western
District of Missouri.

[UNPUBLISHED]

Submitted: April 13, 2004

Filed: May 12, 2004

Before LOKEN, Chief Judge, RICHARD S. ARNOLD and FAGG, Circuit Judges.

PER CURIAM.

Jeffrey Austin appeals his conviction for being a felon in possession of a firearm following a bench trial. Austin contends the evidence was insufficient to convict him because he no longer lived at the residence where the firearms were seized. Having carefully reviewed the record, we conclude there was sufficient evidence that Austin possessed the firearms, either actually or constructively, on or about the date of the seizure. See United States v. Gary, 341 F.3d 829, 834 (8th Cir. 2003) (constructive possession established by showing firearm was seized at defendant's residence).

In the course of a drug investigation, police obtained a warrant to search Austin's home at 1814 South Ferguson Street in Springfield, Missouri. Before the search, police had conducted surveillance and had seen two cars belonging to Austin at the location. After Austin left in one of the cars, officers stopped him and arrested him. At the time of his arrest, Austin possessed the keys to the residence at 1814 South Ferguson. Later that day, during the search of 1814 South Ferguson, officers found two loaded pistols and a shotgun in a bedroom. In the same bedroom, officers also found a photo identification card belonging to Austin, current prescription medicines in his name, and men's clothing. Further, the home's utility records were in Austin's name, Austin made the mortgage payments and had an arrangement with the owner to buy the residence, and Austin listed 1814 South Ferguson as his home address when he was booked less than two months earlier. Witnesses also testified they saw Austin living at the residence during the month of the search and saw him possess the firearms that were later seized by the police.

Viewing the evidence in the light most favorable to the verdict, we conclude substantial evidence supports the district court's* conviction of Austin. See United States v. Navarrete-Barron, 192 F.3d 786, 792 (8th Cir. 1999) (bench trial standard of review). We thus affirm.

*The Honorable Richard E. Dorr, United States District Judge for the Western District of Missouri.